

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 235 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

R.G.SACHDEV

Versus

STATE OF GUJARAT

Appearance:

UNSERVED for Petitioner
NOTICE NOT RECD BACK for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/04/97

ORAL JUDGEMENT

By way of this Special Criminal Application, the petitioner has challenged the order dated 3rd March, 1984, passed by the accused-respondent No.2, B.V. Rathod, 2nd Joint Civil Judge (J.D.), Jamnagar. The crux of the allegation is that in respect of the property which was under possession of the Receiver appointed by the Court, respondent No.2-Joint Civil Judge, by an

ex-parte order, passed the order of attachment and thereby committed an offence under Section 219, I.P.C. Section 219, I.P.C. reads as follows :-

"219. Public servant in judicial proceeding corruptly making report, etc., contrary to law:-

Whoever, being a public servant, corruptly or maliciously make or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

The necessary ingredient of offence under Section 219 is that the accused must be a public servant and he must have made a report or pronounced an order in a judicial proceeding, which is known to him to be contrary to law. The last but not the least ingredient is that he must have acted corruptly or maliciously.

I have gone through the complaint. I do not find any material on the basis of which it could be said that the learned Civil Judge passed the order corruptly or maliciously. Therefore, the most important ingredient of Section 219 is wanting in the case. In view of this, the learned Deputy Secretary was justified in not granting permission under Section 197 of the Code of Criminal Procedure. I find no merit in this Special Criminal Application and the same is accordingly dismissed. Rule discharged.

...